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Supreme Court, U.S.

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IN THE  
**Supreme Court of the United States**

October Term, 1970

No. ~~500~~

70-6

**NELLIE SWARB et al.,**  
Appellants

v.

**WILLIAM M. LENNOX et al.,**  
Appellees

On Appeal from the United States District Court for the  
Eastern District of Pennsylvania

**MOTION OF THE PENNSYLVANIA CREDIT UNION  
LEAGUE FOR LEAVE TO FILE BRIEF AS  
AMICUS CURIAE**

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IN THE  
**Supreme Court of the United States**

October Term, 1970

No. 538

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**NELLIE SWARB et al.,**  
*Appellants*

*v.*

**WILLIAM M. LENNOX et al.,**  
*Appellees*

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**On Appeal from the United States District Court for the  
Eastern District of Pennsylvania**

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**MOTION OF THE PENNSYLVANIA CREDIT UNION  
LEAGUE FOR LEAVE TO FILE BRIEF AS  
AMICUS CURIAE**

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THE PENNSYLVANIA CREDIT UNION LEAGUE respectfully moves this Court for leave to file a brief in this case as *amicus curiae*. The consents of the attorneys for the corporate appellees have been obtained; the consent of the Attorney General for the Commonwealth of Pennsylvania has been obtained; the consent of the City Solicitor of the City of Philadelphia has not been obtained; the consents of the attorneys for the appellants, Nellie Swarb et al., have been denied.

The applicant, the Pennsylvania Credit Union League, has an interest in this case in that the applicant is a non-profit association of federal credit unions, chartered under the Federal Credit Union Act, 12 U.S.C. 1751 et seq., and state credit unions chartered under the Pennsylvania Credit Union Act, 15 P.S. 12301 et seq. The membership of the Pennsylvania Credit Union League consists of

1,329 federal credit unions and 121 state credit unions with a combined individual membership of 983,146 persons, and assets of \$678,977,622.00. The decision in this case will have an immediate effect on the credit unions in Philadelphia—307 federal and 30 state credit unions with individual memberships of 247,638 persons, and assets of \$174,204,940.00.

The interests of federal and state-chartered credit unions are not represented in this action, and their statutory organization, purposes and powers differ from those of any other party to this suit. Both federal and state credit unions are membership organizations empowered by law to receive the savings of their *members only* and to make loans to *members only*; provided, however, that such loans are limited "for provident or productive purposes." Unlike any of the corporate appellees in the instant matter, credit unions are not permitted to engage in credit transactions with the public at large, but are limited to dealing with their members.

So far as applicant has been able to determine, none of the named or intervening defendants below has filed a cross appeal or intends to appear in this court. However, even if the named or intervening defendants do respond on the merits, their interests are not representative of the interests of the applicant.

Applicant submits that the question presented to the Court for decision has not been well defined. In their jurisdictional statement, at page 3, appellants have stated as follows:

"The question presented on this appeal is whether the confession of judgment mechanism as applied to natural persons whose annual individual or conjugal incomes are more than or equal to \$10,000.00 and natural persons who have signed mortgages accompanied by bonds and warrants, or notes required by government agencies, is in violation of the due proc-



ess clause of the 14th Amendment of the United States Constitution."

The question thus stated presents to this Court the question of the validity or reasonableness of the exceptions established by the court below to its injunction against entry of judgments by confession and executions on judgments thus entered.

On the other hand, under date of May 6, 1971, the attorney for the appellants, in a letter to the Honorable William J. Brennan, Jr., stated the question differently:

"The appellants' appeal is not, as the appellees suggest, limited to the mortgage exception and the income exception. Our contention is that the court below erroneously declared the confession of judgment procedure unconstitutional only as applied to certain individuals under certain conditions rather than, as appellants urged below, declaring the procedure unconstitutional on its face."

Thus, stated, the question before this Court is the constitutionality of the challenged Pennsylvania statutes and rules of procedure relating to confessions of judgment, as a fundamental matter, rather than the issue of the validity or reasonableness of the exceptions to the injunctive order of the court below. Applicant respectfully submits that its interests and the interests of its constituent members will be so vitally affected by the decision of the Court in this case that equity demands that these interests be represented as to the far-reaching constitutional issues involved.

Moreover, the court below considered, in passing, the protective provisions of Regulation "Z" (12 C.F.R. 226 ff) enacted pursuant to the provisions of Title I of the Consumer Credit Protection Act of 1968 (15 U.S.C. 1601 et seq.) the short title of which is the Truth-in-Lending Act.

Applicant believes that the court below failed to recognize the true effect of the Truth-in-Lending Act and Regulation "Z" and that the credit unions comprising the membership of the Pennsylvania Credit Union League, as well as the individuals comprising their membership, will be seriously prejudiced thereby.

Applicant respectfully submits that it can be of assistance to the Court in consideration of other aspects of the subject matter, including the use of judgments by confession as security devices, rather than remedial measures; and the guarantee of due process through adequate legislation and rules of procedure.

Credit unions have historically served the purpose of providing the consumer, who has traditionally been denied credit from conventional sources, a place where he could save his money at a fair rate of return and where he could find a source of credit at reasonable rates and on terms consistent with his ability to repay. Therefore, applicant submits that the interests of persons situated as aforesaid, as represented by the Pennsylvania Credit Union League, should properly be before this Court in its consideration of the fundamental and far-reaching constitutional issues involved in this case.

WHEREFORE, applicant prays Your Honorable Court for leave to file its brief as an *amicus curiae*.

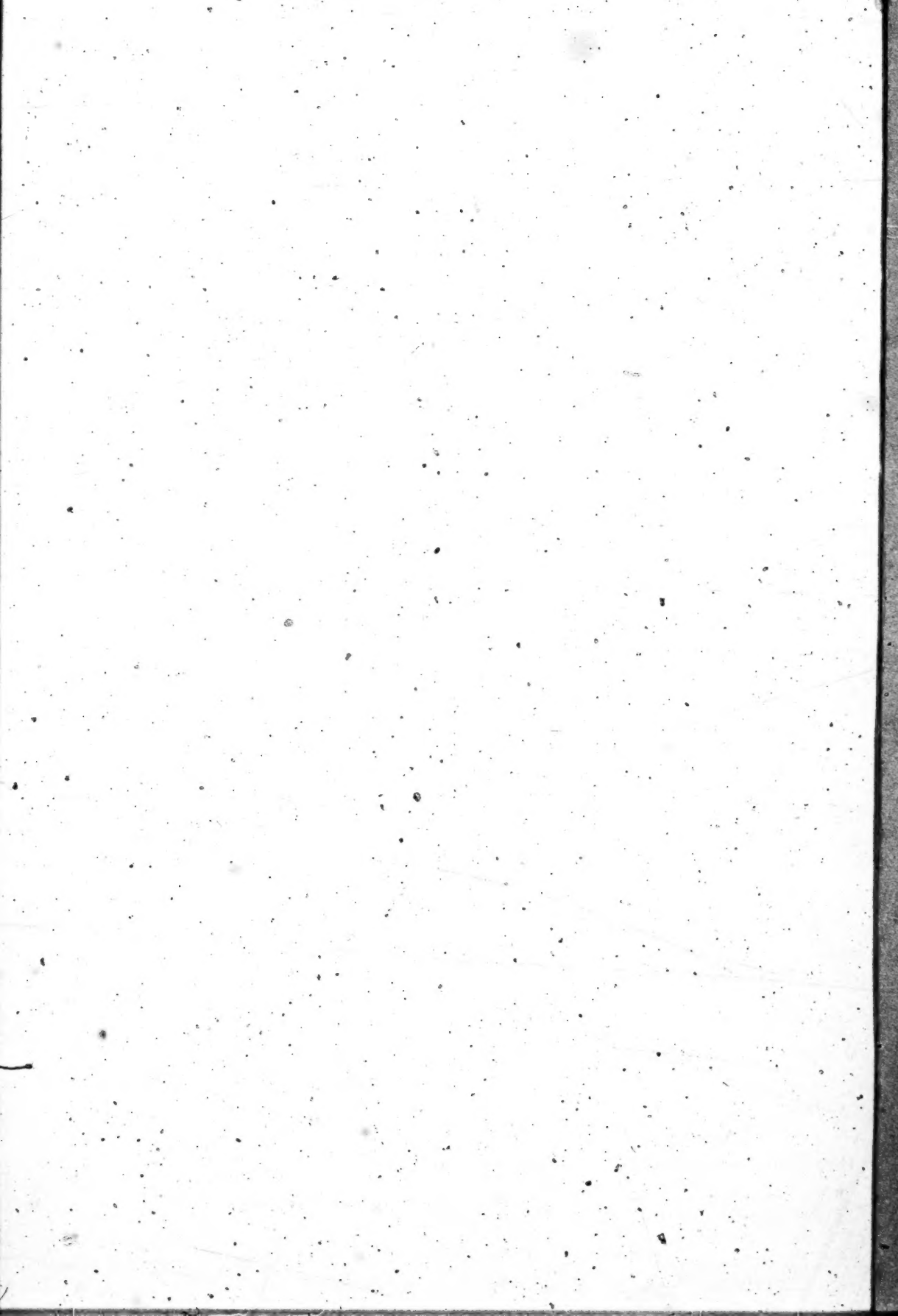
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**In the Supreme Court**

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**United States**

**OCTOBER TERM, 1970**

**No. 598**

**70-6**

**HELLIE SWARTZ, et al., Appellants,**

**VS.**

**WILLIAM M. LENNOR, et al., Appellees.**

**On Appeal From the United States District Court  
For the Eastern District of Pennsylvania**

**BRIEF OF CALIFORNIA RURAL LEGAL ASSISTANCE, ET AL.,  
AS AMICI CURIAE**

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